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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,868	12/08/2000	Jonathan L. Joseph	INQ-001	3141
959	7590	03/21/2005	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			CHANG, ERIC	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/733,868

Applicant(s)

JOSEPH ET AL.

Examiner

Eric Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10,13-23,26,27,30-36 and 39-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10,13-23,26,27,30-36 and 39-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-10, 13-23, 26-27, 30-36 and 39-46 are pending.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-10, 13-23, 26-27, 30-36 and 39-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,477,642 to Lupo, in view of U.S. Patent 6,791,572 to Cloney et al.
4. As to claims 1-5, Lupo discloses a method for displaying selected content to a user during the POST, said method comprising: initiating said POST [col. 7, lines 44-62]; retrieving selected content from a designated persistent storage medium separate from a storage medium holding a BIOS [col. 8, lines 24-29]; displaying said selected content to said user during the remainder of the POST [col. 8, lines 60-63]; subsequently updating said selected content [col. 9, lines 51-67, and col. 10, lines 1-9]; and displaying the updated selected content to a user during the next POST, prior to the next loading of an operating system [col. 10, lines 14-23].

Lupo teaches loading content, such as graphics from an initial payload, and displaying said content to a user during the POST process. Lupo also teaches that the initial payload may be stored either in a ROM that also contains the BIOS [FIG. 3, element 175], or alternatively, in a persistent storage such as flash memory other than the ROM that contains the BIOS [FIG. 3,

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element 152], substantially as claimed. In addition, Lupo teaches a process by which the content is updated by downloading new payloads from the persistent storage device on a remote server [FIG. 3, element 22], and that the update can occur either automatically, in response to a user request [col. 9, lines 59-60].

Lupo teaches all of the limitations of the claims but does not teach that the display occurs during a created time interval between the completion of the POST and the commencement of the loading of the operating system.

Cloney teaches displaying information during a boot process during a time interval between the completion of the POST and the commencement of the loading of the operating system [FIG. 4B, interval T1-T2, and col. 11, lines 25-34]. Thus, Cloney teaches a boot information display method similar to that of Lupo. Cloney further teaches the information is displayed during a time interval created specifically for said display.

At the time that the invention was made, it would have been obvious to a person of ordinary skill in the art to employ the boot information display time interval as taught by Cloney. One of ordinary skill in the art would have been motivated to do so that information can be displayed to the user without interfering with the existing boot process.

It would have been obvious to one of ordinary skill in the art to combine the teachings of the cited references because they are both directed to the problem of displaying information to the user during the boot process before the operating system is loaded. Moreover, the boot information display time interval means taught by Cloney would improve the utility of Lupo because it allowed other boot information, such as other results of the boot process, to be displayed to the user.

5. As to claims 6-9, Lupo discloses a data loader application that provides traffic control management and other communication facilitation between the server and the end user's system [col. 7, lines 36-50]. It would have been obvious to one of ordinary skill in the art that such management comprises determining available bandwidth and CPU processing availability, in order to facilitate said retrieval of updated content from a remote server, substantially as claimed.

6. As to claim 10, Lupo teaches all of the limitations of the claim. In addition, Lupo discloses that the content retrieved and displayed is based on a user profile [col. 8, lines 65-67, and col. 9, lines 1-3], substantially as claimed.

7. As to claim 13, Lupo teaches that the user may be queried during the POST [col. 3, lines 50-56], and that the downloaded content may be modified according to the user profile constructed therefrom [col. 9, lines 51-67].

8. As to claims 14-18, Lupo discloses a method for displaying selected content to a user during the POST, said method comprising: initiating said POST [col. 7, lines 44-62]; retrieving selected content from a designated persistent storage medium separate from a storage medium holding a BIOS [col. 8, lines 24-29]; displaying said selected content to said user during the remainder of the POST [col. 8, lines 60-63]; subsequently updating said selected content [col. 9, lines 51-67, and col. 10, lines 1-9]; and displaying the updated selected content to a user during the next POST, prior to the next loading of an operating system [col. 10, lines 14-23].

Furthermore, Cloney teaches displaying information during a boot process during a time interval between the completion of the POST and the commencement of the loading of the operating system [FIG. 4B, interval T1-T2, and col. 11, lines 25-34].

9. As to claims 19-22, Lupo discloses a data loader application that provides traffic control management and other communication facilitation between the server and the end user's system [col. 7, lines 36-50]. It would have been obvious to one of ordinary skill in the art that such management comprises determining available bandwidth and CPU processing availability, in order to facilitate said retrieval of updated content from a remote server, substantially as claimed.

10. As to claim 23, Lupo teaches all of the limitations of the claim. In addition, Lupo discloses that the content retrieved and displayed is based on a user profile [col. 8, lines 65-67, and col. 9, lines 1-3], substantially as claimed.

11. As to claim 26, Lupo teaches that the user may be queried during the POST [col. 3, lines 50-56], and that the downloaded content may be modified according to the user profile constructed therefrom [col. 9, lines 51-67].

12. As to claims 27 and 30-31, Lupo discloses a method for displaying selected content to a user during the POST, said method comprising: initiating said POST [col. 7, lines 44-62]; retrieving selected content from a designated persistent storage medium separate from a storage medium holding a BIOS [col. 8, lines 24-29]; displaying said selected content to said user during

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the remainder of the POST [col. 8, lines 60-63]; subsequently updating said selected content [col. 9, lines 51-67, and col. 10, lines 1-9]; and displaying the updated selected content to a user during the next POST, prior to the next loading of an operating system [col. 10, lines 14-23]. Furthermore, Cloney teaches displaying information during a boot process during a time interval between the completion of the POST and the commencement of the loading of the operating system [FIG. 4B, interval T1-T2, and col. 11, lines 25-34].

13. As to claims 32-35, Lupo discloses a data loader application that provides traffic control management and other communication facilitation between the server and the end user's system [col. 7, lines 36-50]. It would have been obvious to one of ordinary skill in the art that such management comprises determining available bandwidth and CPU processing availability, in order to facilitate said retrieval of updated content from a remote server, substantially as claimed.

14. As to claim 36, Lupo teaches all of the limitations of the claim. In addition, Lupo discloses that the content retrieved and displayed is based on a user profile [col. 8, lines 65-67, and col. 9, lines 1-3], substantially as claimed.

15. As to claim 39, Lupo teaches that the user may be queried during the POST [col. 3, lines 50-56], and that the downloaded content may be modified according to the user profile constructed therefrom [col. 9, lines 51-67].

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16. As to claim 40, Lupo teaches the electronic device is a computer system [col. 2, lines 38-45].

17. As to claims 41-46, Lupo discloses a method for displaying selected content to a user during the POST, said method comprising: initiating said POST [col. 7, lines 44-62]; retrieving selected content from a designated persistent storage medium separate from a storage medium holding a BIOS [col. 8, lines 24-29]; displaying said selected content to said user during the remainder of the POST [col. 8, lines 60-63]; subsequently updating said selected content [col. 9, lines 51-67, and col. 10, lines 1-9]; and displaying the updated selected content to a user during the next POST, prior to the next loading of an operating system [col. 10, lines 14-23].

Furthermore, Cloney teaches displaying information during a boot process during a time interval between the completion of the POST and the commencement of the loading of the operating system [FIG. 4B, interval T1-T2, and col. 11, lines 25-34]. Because Lupo and Cloney teach the method, Lupo and Cloney teach a medium holding executable steps for implementing such a method. Furthermore, Lupo teaches the electronic device is a computer system [col. 2, lines 38-45].

### ***Response to Arguments***

18. Applicant's arguments with respect to claims 1-10, 13-23, 26-27, 30-36 and 39-46 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***



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19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Chang whose telephone number is (571) 272-3671. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 14, 2005  
ec

  
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